

**UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF ALABAMA
MONTGOMERY DIVISION**

IN RE:

CASE NO.: 15-32743

NANCY DENENNY,

CHAPTER 13

AKA NANCY DENENNY RHODES,

HON. DWIGHT H. WILLIAMS

Debtor.

JR.

_____ /

**MOTION FOR RELIEF FROM THE AUTOMATIC STAY FILED BY
NATIONSTAR MORTGAGE, LLC D/B/A CHAMPION MORTGAGE COMPANY**

Secured Creditor, NATIONSTAR MORTGAGE LLC D/B/A CHAMPION MORTGAGE COMPANY by and through the undersigned counsel, hereby moves this Court, pursuant to 11 U.S.C. § 362(d), for a modification of the automatic stay provisions for cause, or in the alternative, and, in support thereof, states the following:

1. Debtor(s), Nancy Denenny, filed a voluntary petition pursuant to Chapter 13 of the United States Bankruptcy Code on September 30, 2015.
2. Jurisdiction of this cause is granted to the Bankruptcy Court pursuant to 28 U.S.C. § 1334, 11 U.S.C. § 362(d), Fed. R. Bankr. P. 4001(a), and all other applicable rules and statutes affecting the jurisdiction of the Bankruptcy Courts generally.
3. On October 26, 2011, Nancy E. Rhodes executed and delivered a Promissory Note ("Note") and Reverse Mortgage ("Mortgage") securing payment of the Note in the maximum principal amount of \$159,000.00 to Genworth Financial Home Equity Access, Inc. The Mortgage was recorded on November 3, 2011, in Book 4205 at Page 651, in the Public Records of Montgomery County, Alabama. The loan was transferred to Secured Creditor. True and accurate copies of documents establishing a perfected security interest

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and ability to enforce the terms of the Note are attached hereto as Composite Exhibit "A."

The documents include copies of the Note with any required indorsements, Recorded Mortgage, Assignment(s) of Mortgage, and any other applicable documentation supporting the right to seek a lift of the automatic stay and foreclose, if necessary.

4. The Mortgage provides Secured Creditor a lien on the real property located in Montgomery County, Alabama, and legally described as follows:

THE LAND DESCRIBED HEREIN IS SITUATED IN THE STATE OF ALABAMA, COUNTY OF MONTGOMERY, AND IS DESCRIBED AS FOLLOWS: LOT 2D ACCORDING TO THE PLAT OF LANDMARK OAKS PATIO HOMES PLAT, AS SAID MAP APPEARS OF RECORD IN THE OFFICE OF THE JUDGE OF PROBATE OF MONTGOMERY COUNTY, ALABAMA IN MAP BOOK 34 AT PAGE 209

This property is located at the street address of: 189 S Burbank Dr, Montgomery, AL 36117-2792.

5. The terms of the aforementioned Note and Mortgage have been in default, and remain in default, since October 20, 2015. The terms and conditions of the Note and Mortgage are in default due to failure to perform an obligation under the Mortgage by failing to maintain property insurance in the amount of \$853.00, as of the date of this motion.

10/20/2015	Force Placed Insurance (08/01/2015-08/01/2016)	\$430.00
8/8/2016	Force Placed Insurance (08/01/2016-08/01/2017)	\$423.00
Total		\$853.00

6. As of September 30, 2016, Secured Creditor is due the following amount:

Current Unpaid Balance	\$80,447.93
Accrued Interest on Unpaid Balance	\$175.52
MIP for Current Month	\$79.90
Estimated Recording Fees	\$32.00
Total Payoff	\$80,735.35

Documentation in support of this claim is attached hereto as Exhibit "B"

7. According to Debtor's Schedule "A", the value of the property is \$100,000.00. See Exhibit "C" which is attached hereto and permissible as a property valuation under Fed. R. Evid. 803(8).
8. Based upon the Debtor(s)' Confirmed Chapter 13 Amended Plan (Docket No. 21), the property is not included within the plan.
9. Secured Creditor's security interest in the subject property is being significantly jeopardized by Debtor(s)' failure to comply with the terms of the subject loan documents while Secured Creditor is prohibited from pursuing lawful remedies to protect such interest. Secured Creditor has no protection against the erosion of its collateral position and no other form of adequate protection is provided.
10. If Secured Creditor is not permitted to enforce its security interest in the collateral or be provided with adequate protection, it will suffer irreparable injury, loss, and damage.
11. Secured Creditor respectfully requests the Court grant it relief from the Automatic Stay in this cause pursuant to §362(d)(1) of the Bankruptcy Code, for cause, namely the lack of adequate protection to Secured Creditor for its interest in the above stated collateral. Secured Creditor additionally seeks relief from the Automatic Stay pursuant to §362(d)(2) of the Bankruptcy Code, as the collateral is unnecessary to an effective reorganization of the Debtor's assets.
12. Secured Creditor has incurred court costs and attorney's fees in this proceeding and will incur additional fees, costs and expenses in foreclosing the Mortgage and in preserving and protecting the property, all of which additional sums are secured by the lien of the Mortgage. Secured Creditor seeks an award of its reasonable attorneys' fees and costs, or alternatively, leave to seek recovery of its reasonable attorneys' fees and costs in any

pending or subsequent foreclosure proceeding.

WHEREFORE, Secured Creditor, prays this Honorable Court enter an order modifying the automatic stay under 11 U.S.C. § 362(d) to permit Secured Creditor to take any and all steps necessary to exercise any and all rights it may have in the collateral described herein, to gain possession of said collateral, to seek recovery of its reasonable attorneys' fees and costs incurred in this proceeding, and to any such further relief as this Honorable Court deems just and appropriate.

Date: September 28, 2016

McCullough Payne Haan & Nadler, LLC
Authorized Agent for Secured Creditor
271 17th Street, NW, Suite 2200
Atlanta, Georgia 30363-6213
404-873-1386 ext.105

By: /s/ James G. Whiddon, III, Esquire
James G. Whiddon, III, Esquire
Alabama Bar No.: ASB-1043-N65J
Email: jwhiddon@mphlawfirm.com

CERTIFICATE OF SERVICE

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I HEREBY CERTIFY that on September 28, 2016 I electronically filed the foregoing with the Clerk of Court by using the CM/ECF system, and a true and correct copy has been served via CM/ECF or United States Mail to the following parties:

Nancy Denenny
189 S. Burbank Dr
Montgomery, AL 36117
Debtor

Joshua C. Milam
Shinbaum & Campbell
566 S. Perry Street
Montgomery, AL 36104
Attorney for Debtor

U. S. Bankruptcy Administrator
One Church Street
Montgomery, AL 36104
Bankruptcy Administrator

Sabrina L. McKinney [Acting]
P.O. Box 173
Montgomery, AL 36101
Trustee

Date: September 28, 2016

McCullough Payne Haan & Nadler, LLC
Authorized Agent for Secured Creditor
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